

REMARKS

Claims 1-3, 5 and 7-13 are pending. By this Amendment, claims 1, 7, 8 and 9 are amended, claims 4 and 6 are canceled and claims 11-13 are added. Claim 1, 7, 8 and 9 are amended to more fully distinguish the invention of the claims over the teachings of the prior art references cited against these claims. Additionally, the phrase "determining means" in claim 1 is replaced with the phrase "determination means" to conform with the originally filed claim.

No new matter is added by this Amendment. Support for newly added claims 11-13 is found, for example, on page 9, lines 18-23, page 15, lines 9-15 and page 16, lines 10-27.

In view of the foregoing amendments and the following remarks, reconsideration of this application is respectfully requested.

**I. Allegedly Defective Declaration**

The Patent Office alleges that the Declaration is defective under 37 CFR 1.52(c) because non-initialed and/or non-dated alterations have been made to the Declaration.

Applicants respectfully disagree.

Applicants respectfully submit that the original Declaration does not have non-initialed and/or non-dated alterations. The only possible alteration to the Declaration appears to be the change of residence for Shinichi Matsuura. However, Shinichi Matsuura signed the Declaration on August 22, 2000 contemporaneously with the alleged alteration, thereby validating the alleged alteration.

For the foregoing reasons, Applicants respectfully submit that the Declaration is in compliance with 37 CFR 1.52(c).

**II. Rejection Under 35 U.S.C. §102(b)**

Claim 1 was rejected under 35 U.S.C. §102(b) as allegedly being anticipated by U.S. Patent No. 5,285,223 to Ueno et al. (hereinafter referred to as "Ueno"). This rejection is respectfully traversed.

Ueno describes an ophthalmic laser photocoagulation apparatus constructed to form an aiming beam into a ring-shaped beam by an optical element having two conical planes, so that an in-focus state can be judged based on a focusing pattern of the aiming beam. Specifically, an in-focus state is when a point on a focal plane of the focusing lens 5 forms a small and bright light spot pattern b on the object plane. In an out-of-focus state, a ring-shaped light pattern a or c is formed on the object plane and the diameter of the ring varies with the amount of defocusing accordingly. See col. 3, line 67 to col. 4, line 5.

In addition, Ueno discloses an observation optical system 11 for observing the spot size through the observation optical system 11 at the time of alignment so that the treatment portion on the object plane and the size thereof can be exactly estimated. See col. 5, lines 55-59. Ueno further discloses in col. 5, lines 63-66 that "the alignment (focusing operation) along the optical axis may be automated by arranging a photo-sensing device such as a CCD in parallel to the observation optical system 11." The automation referred to in Ueno is the automation of verifying as to whether or not the observer's judgment of the in-focus state is proper. A photo-sensing device does not function to align or focus the lenses of an ophthalmic optical apparatus.

Nowhere does Ueno describe or suggest that the actual process of alignment (focusing) is automated as claimed in the present invention. Rather, the observer in Ueno must still align the focusing pattern into an in-focus state as described above and then the photo-sensing device determines whether or not the observer's judgment is correct.

Further, nowhere does Ueno describe or suggest a movement detection means for detecting movement by the movement means, a determination means for determining a direction of the optical axis direction in which the sighting point is to be moved based on results detected by the sighting state detection means and the movement detection means respectively and movement control means for controlling the movement means based on the determined direction to complete the sighting.

For all the foregoing reasons, reconsideration and withdrawal of this rejection are respectfully requested.

**III. Rejection Under 35 U.S.C. §103(a)**

Claims 2-10 were rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Ueno in view of U.S. Patent No. 5,098,426 to Sklar et al. (hereinafter referred to as "Sklar"). This rejection is respectfully traversed.

As described above, Ueno fails to describe or suggest the recited elements of claim 1. The Patent Office has relied on Sklar for the use of a display, and then further states that Sklar "discloses no details of the automatic focusing device." Thus, even if Sklar were combined with Ueno as alleged by the Patent Office, the present invention still would not have been achieved because Sklar does not remedy the deficiencies of Ueno as described above.

For the foregoing reasons, reconsideration and withdrawal of this rejection are thus respectfully requested.

**IV. Newly Added Claims 11-13**

Newly added claims 11-13 provide additional subject matter not shown or described in Ueno, Sklar or any combination thereof. In particular, claims 12 and 13 further define the automated alignment functions of the present invention.

V. **Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-3, 5 and 7-13 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



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Date: June 2, 2004

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